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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/226,971	01/08/1999	MICHAEL ANTHONY MARRA III	LE9-98-030	8871
7590	01/10/2006		EXAMINER	
JOHN J MCARDLE JR LEXMARK INTERNATIONAL INC INTELLECTUAL PROPERTY LAW DEPT 740 NEW CIRCLE ROAD NW LEXINGTON, KY 40550			GARLAND, STEVEN R	
			ART UNIT	PAPER NUMBER
			2125	
			DATE MAILED: 01/10/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/226,971	MARRA ET AL.	
	Examiner	Art Unit	
	Steven R. Garland	2125	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 21 November 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 4,6 and 7 is/are allowed.
- 6) Claim(s) 1 is/are rejected.
- 7) Claim(s) 2,3,5 and 8 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

<ol style="list-style-type: none"> 1)<input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3)<input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____. 	<ol style="list-style-type: none"> 4)<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____. 5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6)<input type="checkbox"/> Other: _____.
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DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by the Motorola MC4344/MC4044 brochure (hereinafter Motorola) and copy previously supplied to applicant.

Beginning with the second full paragraph on page 6-23 of Motorola, the operation of the MC4344/MC4044 phase-frequency detector as a frequency comparator is disclosed. As described and illustrated in rows (i)-(l) of the timing diagram of Figure 2, a reference pulse train R is compared with a feedback pulse train V from a target system, resulting in a frequency error signal U1. As indicated, "... the duty cycle of the U1 waveform varies at a rate proportional to the difference frequency of the two inputs, R and V. It is this characteristic that permits the MC4344/4044 to be used as a frequency discriminator." (Motorola, right column bridging paragraph at page 6-23). Further, that the generated frequency error signal is intended to be a control signal applied to a target system is readily evident from the disclosure of Motorola. For example, the textual paragraph at page 6-20 of Motorola indicates that the described "phase-frequency detector "is useful in a broad range of phase-locked loop applications.

In response to applicant's arguments: the phase lock only occurs when the signals R and V have the same frequency (see figure 2, rows a-h and page 6-22).

Further in the paragraph bridging the first and second columns on pages 6-23 the operation of device when acting as a frequency comparator is described and is illustrated in rows i-l of figure 2. The signal U1 in rows i-l is clearly generated without regard to phase locking of the input signals as amended claim 1 now requires. The signal U1 is based on the device state and the occurrence of input signal transitions with the duty cycle of the output U1 signal being responsive to the frequency difference of the R and V signals as explained on page 6-23. The reference is being relied on based on the frequency comparison aspects not the phase comparison aspects applicant is arguing.

3. It is suggested that claim 2 be incorporated into claim 1 to overcome this rejection.
4. Claims 2,3,5, and 8 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
5. Claims 4,6, and 7 are allowed.
6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven R. Garland whose telephone number is 571-272-3741. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on 571-272-3749. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

L. R. G.
572-3749
Steven R Garland
Examiner
Art Unit 2125

LEO PICARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100